

HALL & ASSOCIATES

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August 7, 2018

Via FOIA Online

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: Freedom of Information Act Request for November 20, 2013 Email in Full

To Whom This May Concern:

This is a request for public records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. Section 552, as implemented by the Environmental Protection Agency ("EPA") at 40 C.F.R. Part 2.

Background

On October 25, 2013, Hall & Associates ("H&A") submitted a FOIA request to EPA entitled EPA-HQ-2014-000552. On December 24, 2013, EPA delivered the final response to this request, including the attached November 20, 2013 redacted email. The attached document was partially withheld under the deliberative process privilege. On May 22, 2018 the D.C. District Court in *Hall & Associates v. EPA* (15-cv-1055), held that "EPA made a nonacquiescence decision with respect to the Eighth Circuit's *Iowa League of Cities* opinion as of November 19, 2013." Therefore, it is clear that EPA made a decision, at the latest, on that date and any document developed after November 19, 2013 may not be withheld under the deliberative process privilege.

Request

In light of the recent D.C. District Court decision, this Request seeks the attached email in full. The D.C. District Court found that EPA rendered a non-acquiescence decision, at the latest, on November 19, 2013 and therefore, as this document does not predate November 19, 2013, it may not be classified as pre-decisional or deliberative and must be released in full.

Please contact the undersigned if the associated search and duplication costs are anticipated to exceed \$250.00. Please duplicate the records that are responsive to this request and send it to the undersigned at the above address. If the requested record is withheld based upon any asserted privilege, please identify the basis for the non-disclosure.

If you have any questions regarding this request, please do not hesitate to contact this office.

Respectfully,

/s/ Erin Thomas

Erin Thomas
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From: DeMarco, Carol
To: Theis, Joseph; Denton, Loren; Pollins, Mark
Cc: Zimny, James; Vinch, James
Subject: PVSC and blending (PLEASE READ)
Date: Wednesday, November 20, 2013 4:45:24 PM
Importance: High

Joe, Loren and Mark,

At the 11/19 meeting EPA/DOJ had with the State of New Jersey re: PVSC, the state asked EPA for anything the agency has put in writing about how it's handling the 8th Circuit's Iowa League of Cities decision. PVSC was not at the meeting, just the state attended. Is there anything in writing I can share with NJDEP on this issue?

[REDACTED]

As you may recall, John Hall (and Paul Calamita) have served as PVSC's counsel. It's not clear PVSC is still using Hall for the CSO enforcement case, but apparently Hall remains involved on the permitting front because he recently called NJDEP about the draft PVSC permit.

Thanks,
Carol

Carol Lynn DeMarco, Attorney-Advisor
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